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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,118	08/28/2000	JHEROEN P. DORENBOSCH	PF2054NA	9447

20280 7590 09/25/2003

MOTOROLA INC
600 NORTH US HIGHWAY 45
LIBERTYVILLE, IL 60048-5343

EXAMINER

D AGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
2683	5

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/650,118	DORENBOSCH ET AL.
	Examiner Stephen M. D'Agosta	Art Unit 2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 09 August 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-18 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION***Response to Arguments***

Applicant's arguments filed 8-9-03 have been fully considered but they are not persuasive:

1. Claim 1, the ability of Iseyama to differentiate between a "normal" user (eg. Normal class) and an "emergency" user (eg. Emergency class) reads on the claim. The "class" of user can be interpreted in many different ways. Since two classes are disclosed, others can be differentiated as well.
2. Claim 10: The ability for Davidson to provide a complete backup system such that ALL devices are supported reads on the claim. Supporting all users encompasses supporting some, not the other way around, which would have been more novel. Davidson teaches providing service to all (or potentially just some) of the users.
3. Claims 6 and 15: A backup system inherently may not support as many users as the primary system. Davidson teaches an architecture for failover operations whereby a backup MSC takes over in the event the primary MSC fails (abstract). Hence, all BTS's and BSC's will still be ~~in~~ operable and capable of supporting the users who were in communication at the time of the failure (based upon the loading of the backup MSC).
4. Claims 7 and 17: The telecommunications architecture as taught by Davidson does not dictate any design requirements regarding the primary or backup MSC's, only that one can provide backup to the other in event of failure. If the primary system is a relatively small system (eg. in a rural area) and the backup is a large system (eg. an urban/city area), then the backup would have a higher reliability than the first. The examiner interprets this as a design choice which is not novel. One skilled in the art would provide for higher or lower reliability backup systems if/when faced with design criteria such as cost vs. performance OR mission-critical vs. cost. The first would dictate a lower reliability since cost is the priority whereas the second would dictate a higher reliability since the calls must get through even during a failure.
5. Claim 8: Davidson teaches an emergency call that will not be disconnected, since the system must be able to distinguish between an emergency class-of-user versus a normal class-of-user, the system must store relevant data about each call (ie. which are/are not emergency calls) which reads on the claim.

6. The examiner is confused by the argument of claims 17-18, since the examiner interprets the claim as just describing the devices which are supported by the "main system" as described in claims 1 and 10 (eg. an MSC which supports mobile devices). It appears obvious to the examiner that the plurality of communication devices are mobile devices (since the applicant and Davidson teach cellular systems).

7. A new examiner, Stephen D'Agosta, has been assigned this case.

8. The USC 112 rejection for claim 9 has been overcome by the applicant's amendment.

9. The objection to claim 14 has been overcome by the applicant's amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson et al. US 6,408,182 and further in view of Iseyama US 6,192,232 (hereafter Davidson and Iseyama).

Regarding **claim 1**, Davidson teaches a communication system (figure 2) that provides backup wireless communication services comprising a main system component (primary MSC) that normally serves all of the plurality of the communication devices and a backup system component [backup MSC] for the main system component that serves the at least one first and the at least one second communication devices based on a class of service associated with a communication device, when the main system component goes out of service [abstract; col.1, lines 44-67; col.2, lines 135]. Davidson fails to teach a plurality of communication devices that include at least one first communication device

subscribed to a first class or service and at least one second communication device subscribed to a second class of service.

However, Iseyama teaches a plurality of communication devices that include at least one first communication device subscribed to a first class or service and at least one second communication device subscribed to a second class of service [col.1, lines 53-67; col.2, lines 1-15; col.3, lines 11-25].

Therefore it would have been obvious to a person of ordinary skill in the art at the time that the invention was made to include the teachings of Davidson with Iseyama in order to efficiently provide a cost-effective uninterrupted backup wireless communication system with a first class service and a second class service. 8. Regarding claims 2 and 12, Davidson teaches a communication system or method wherein communication service to the at least one communication device subscribed to the second class of service is terminated, when the main system component goes out of service [col.1, lines 44-57; col.3, lines 49-65]. 9. Regarding claims 3 and 13, Davidson teaches a communication system or method wherein the first class of service has a higher service priority relative to the second class of service [col.2, lines 59-66; col.3, lines 20-23].

Regarding **claim 4**, Iseyama teaches a communication system wherein the first class of service [1st base station] corresponds to an emergency service and the second class of service [2nd base station] corresponds to a non-emergency service [abstract; col.3, lines 11-25; col.4, lines 28-43] 11.

Regarding claims 5 and 14, Davidson teaches a communication system or method wherein the main system component [primary MSC] is a main base station and the backup system component [alternate MSC] is a backup base station [col.1, lines 44-67; col.2, lines 1-35].

Regarding **claims 6 and 15**, Davidson teaches a communication system or method wherein the backup system component has a lower capacity than the main system component [col.3, lines 20-34; col.4, lines 34-50; col.5, lines 24-53]

Regarding **claims 7 and 16**, Davidson teaches a communication system or method wherein the backup system has a higher reliability than the main system component [col.2, lines 19-35; col.4, lines 34-65].

Regarding **claim 8**, Davidson teaches a communication system wherein information about the class of service for each communication device is stored in the system [col.3, lines 20-67; col.4, lines 1-15].

Regarding **claim 9**, Davidson teaches a communication system wherein the at least one communication device informs the system relative to a subscribed class of service [col.3, lines 20-67; col.4, lines 1-15].

Regarding **claim 10**, Davidson teaches a method for providing wireless communication services to a plurality of communication devices comprising normally serving all of the plurality of the communication devices using a main system component [primary MSC] and serving some but not all of the plurality of communication devices using a backup system component [backup MSC] in accordance with a class of service associated with a communication device, when the main system component goes out of service [abstract; col.1, lines 44-67; col.2, lines 135; col.3, lines 49-65]. Davidson fails to teach a plurality of communication devices include at least one first communication device subscribed to a first class of service and at least one second communication device subscribed to a second class of service.

However, Iseyama teaches a plurality of communication devices include at least one first communication device subscribed to a first class of service and at least one second communication device subscribed to a second class of service [col.1, lines 5367; col.2, lines 1-15; col.3, lines 11-25].

Therefore it would have been obvious to a person of ordinary skill in the art at the time that the invention was made to include the teachings of Davidson with Iseyama in order to efficiently provide a cost-effective uninterrupted backup wireless communication system with a first class service and a second class service.

Regarding **claim 11**, Davidson teaches the method wherein the backup system component [backup MSC] only serves the at least one first communication device subscribed to the first class of service, when the main system component [primary MSC] goes out of service [col.1, lines 44-57; col.3, lines 49-65].

Regarding **NEW CLAIMS 17-18**, Davidson teaches claim 1/10 wherein the plurality of communication devices, the at least one first and second devices are mobile communication devices (figure 1 shows a cellular/mobile telephone network and is disclosed in C1, L5 to C2, L36).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

SMD

9-15-03



WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600